

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

DAVID THOMPSON,

Plaintiff,

Case No. 23-cv-854-pp

v.

D. RADTKE, *et al.*,

Defendants.

**ORDER DENYING AS MOOT PLAINTIFF'S MOTION FOR LEAVE TO
PROCEED WITHOUT PREPAYING FILING FEE (DKT. NO. 3) AND
DISMISSING CASE WITHOUT PREJUDICE FOR PLAINTIFF'S FAILURE TO
PAY INITIAL PARTIAL FILING FEE**

When he filed this lawsuit in June 2023, the plaintiff listed his address as P.O. Box 351, Waupun Wisconsin—an address for Waupun Correctional Institution. Dkt. No. 1-1. On July 10, 2023, the court issued an order requiring the plaintiff to pay an initial partial filing fee of \$11.38, or to file a letter requesting more time to do so, by the end of the day on July 31, 2023. Dkt. No. 6. The court advised the plaintiff that if it “[did] not receive either the \$11.38 or a letter asking for more time to pay it by the end of the day on July 31, 2023, the court [would] dismiss the lawsuit without prejudice and the plaintiff [would] still owe the \$350 filing fee.” Id. at 4 (emphasis omitted). The court sent that order to the plaintiff at Waupun Correctional Institution—the address he had provided.

The July 31, 2023 deadline has passed, and the plaintiff has not paid the initial partial filing fee or requested additional time to do so. The court has not heard from the plaintiff since July 7, 2023, when it received his trust account statement and magistrate judge consent form. Dkt. Nos. 4, 5. The court has not received back as undeliverable its July 10, 2023 order requiring the plaintiff to pay the initial partial filing fee. The Wisconsin Department of Corrections locator web site indicates that the plaintiff has been at Waupun Correctional continuously since December of 2022. <https://appsdoc.wi.gov/lop/details/detail>.

The court will enforce its July 10, 2023 order and will dismiss this case without prejudice for the plaintiff's failure to pay the initial partial filing fee. He remains obligated to pay the entire \$350 filing fee.

The court **DENIES AS MOOT** the plaintiff's motion for leave to proceed without prepaying the filing fee. Dkt. No. 3.

The court **ORDERS** that this case is **DISMISSED WITHOUT PREJUDICE**. The clerk will enter judgment accordingly.

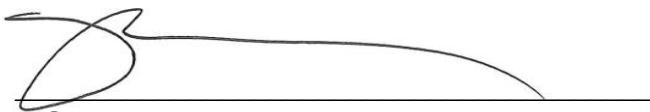
The court **ORDERS** that, in accordance with 28 U.S.C. §1915(b)(1), the plaintiff must pay the mandatory \$350 statutory filing fee. The agency that has custody of the plaintiff must collect from his institution trust account the \$350 filing fee by collecting monthly payments from the plaintiff's prison trust account in an amount equal to 20% of the preceding month's income credited to the plaintiff's trust account and forwarding payments to the clerk of court each time the amount in the account exceeds \$10 in accordance with 28 U.S.C.

§1915(b)(2). The agency must clearly identify the payments by the case name and number. If the plaintiff transfers to another county, state or federal institution, the transferring institution must forward a copy of this order, along with the plaintiff's remaining balance, to the receiving institution.

The court will send a copy of this order to the Warden at Waupun Correctional Institution.

Dated in Milwaukee, Wisconsin this 16th day of August, 2023.

BY THE COURT:



HON. PAMELA PEPPER
Chief United States District Judge